

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAY WELLS and RYAN RASMUSSEN,

Plaintiffs,

vs.

LAWRENCE VOLF; PRIME TRADING
COMPANY, INC.; COMMERCIAL HEDGE
SERVICES, INC.; SHERMAN COUNTY
BANK; and SHERMAN COUNTY
MANAGEMENT, INC.,

Defendants.

SHERMAN COUNTY BANK and
SHERMAN COUNTY MANAGEMENT, INC.,

Third-Party Plaintiffs,

vs.

R. J. O'BRIEN & ASSOCIATES, INC.,

Third-Party Defendant.

4:04CV3193

**MEMORANDUM
AND ORDER**

The plaintiffs, Jay Wells and Ryan Rasmussen, and the defendants, Lawrence Volf, Prime Trading Company, Inc., Commercial Hedge Services, Inc., Sherman County Bank, and Sherman County Management, Inc., have jointly filed a motion for issuance of an order, pursuant to Federal Rule of Civil Procedure 41(a)(2), dismissing the plaintiffs' claims against the defendants and the defendants' counterclaims against the plaintiffs, all without prejudice, with each party to pay its own costs. (Filing 92)

The defendants and third-party plaintiffs, Sherman County Bank and Sherman County Management, Inc., have also filed a motion for issuance of an order, pursuant to Federal Rule of Civil Procedure 41(a)(2), dismissing their third-party complaint against R.J. O'Brien & Associates, Inc. without prejudice, each party to pay its own costs. (Filing 93)

No objection has been filed to either motion.

IT IS ORDERED that:

1. Plaintiffs' and Defendants' joint motion to dismiss (filing 92) is granted;
2. Third-Party Plaintiffs' motion to dismiss (filing 93) is granted;
3. Third-Party Defendant's motion to strike order or to dismiss third-party complaint (filing 62) is denied without prejudice, as moot;
4. Plaintiffs' appeal from magistrate judge's order (filing 75) is denied without prejudice, as moot; and
5. Judgment shall be entered by separate document.

August 29, 2005.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge